

Rule 54.2 TAXATION OF COSTS

(a) *Filing of Certificate of Costs.* After entry of the final judgment allowing costs to the prevailing party, said party shall prepare and file a certificate of costs within twenty (20) days which shall contain an itemized schedule of costs incurred and a statement that such schedule is correct and that the charges were actually and necessarily incurred. The original certificate shall be filed with the Clerk of Court and a copy served upon opposing counsel.

(b) *Objections to Cost Bill.* If no objections are filed within twenty (20) days after service of the cost bill, the Clerk of Court shall tax the costs which appear properly claimed. If objections are filed, the Clerk of Court shall consider the objections and shall tax costs subject to review by the Court, as provided by Fed. R. Civ. P. 54(d).

(c) *Witnesses and Experts.* Where witnesses, both fact and expert, appear voluntarily or are subpoenaed by the regular service of subpoena within the District, or outside the District as allowed by law, they shall be entitled to fees provided by statute to be taxed as costs in the case. In all civil cases, witness fees shall be taxed only upon the certificate of counsel for the prevailing party requesting the same. Said certificate shall contain the following information:

- (1) the name of the witness;
- (2) the place of residence or the place where subpoenaed, or the place from which the witness voluntarily traveled without a subpoena to attend upon said case;
- (3) the number of days the witness actually testified in Court;
- (4) the number of days the witness traveled to and from the place of trial or hearings and the exact number of miles traveled; and
- (5) the manner of travel, that is, whether by air, railroad, bus or private automobile.

(d) *Clerk of Court Taxing Witness Fees.* The Clerk of Court shall tax the witness fees after the certificate is filed, provided the information contained therein corresponds with the facts upon the records of the Court. If, however, there is a

discrepancy between said certificate and the Court records, the Clerk of Court shall tax the witness fees in accordance with the official records.

(e) *Costs in Removed Cases.* In cases removed from state courts, the costs incurred in the state courts shall be taxed in favor of the prevailing party upon the filing with the Clerk of Court of a certificate of counsel or other documentary evidence in support of such costs.

(f) *Items Taxable as Costs.* It shall be the policy of the Court to allow certain items of costs and disallow other items, as specified in any special order of the Court.

(1) *Fees of the Clerk of Court and United States Marshal.* The filing fees paid to the Clerk of Court either, for an original filing or for removal, shall be taxable.

Fees of the United States Marshal, as set forth in 28 U.S.C. § 1921, shall be taxable. The costs for service by a sheriff or other authorized person shall be taxable, except that counsel have the duty to mitigate costs by having process served by a person located as closely as possible to the person to be served, in order to minimize mileage fees.

(2) *Fees of Court Reporter.*

(A) When a transcript is obtained for purposes of appeal the cost of the original is taxable if the appeal is successful.

(B) Transcripts of trial proceedings obtained for the purposes of preparing proposed findings of fact and conclusions of law, when directed by the Court in trials to the Court, shall be taxable as a matter of course to the successful party.

(C) Daily transcripts of trial proceedings obtained for the convenience of counsel are not taxable as costs unless advance authority has been sought and obtained from the Court.

(D) Costs of depositions are taxable if the depositions or portions thereof were read into evidence at trial in lieu of the appearance of the deponent; or if the deposition is used at trial to impeach a witness on the witness stand with his/her prior testimony; or it is necessary during the course of

the trial that a witness's recollection be refreshed from his/her deposition testimony; **or the deposition is used in support of or in opposition to any dispositive motion.** Costs of the taxing party's copies of depositions taken by the opponent and utilized or read into evidence at trial in lieu of the appearance of a witness are taxable. ~~The attendance fee of the reporter is taxable but no mileage or per diem costs shall be taxed.~~ This Court has entered an order setting the transcript rates which are allowed for official transcripts in this Court. Those fees are hereby adopted as the maximum taxable transcription fees notwithstanding what fee may have been charged to the party by the shorthand reporter. A copy of the order setting the transcription rates may be obtained from the Clerk of Court.

The attendance fee of the reporter is taxable. Extra fees charged by reporters for attendance, mileage, per diem, expeditious handling, etc., shall not be taxable unless advance authorization was sought and received from the Court.

(3) *Witness Fees.* Witness fees are allowed, pursuant to statute, per each day of testimony and necessary attendance at trial and for each day of necessary travel. Counsel shall be expected to justify the witness fee for any days which the courtroom minutes do not reveal that a particular witness testified. In addition, a subsistence fee may be allowed for each day that the witness is so far removed from his residence as to prohibit return thereto from day-to-day. Such subsistence shall be determined pursuant to the governmental rate in effect at the time.

Taxation may be made for the cost of each day the witness is necessarily in attendance and is not limited only to those costs incurred for the actual day upon which the witness testified. Fees shall be limited, however, to the days of actual testimony and the days required for travel if no showing is made that the witness necessarily attended for a longer time. Witness fees are taxable whether or not a subpoena was issued.

(A) Witnesses attending in this Court or before any person authorized to take their depositions, if within the jurisdiction of this Court, are entitled to a mileage fee for going to and from their place of residence. The mileage fee shall be equal to the mileage fee which government employees would be entitled to at the time the expense was incurred by the witness.

(B) Witnesses attending from outside the jurisdiction shall be allowed the same mileage fee as set forth

in (6)(C) above, up to the maximum amount of five hundred (500) miles, one way, which is the approximate maximum mileage which may be assessed within the jurisdiction.

(C) Provided, however, that witnesses shall be allowed the cost of common carrier transportation if such mode of travel does not exceed the maximum amount which could be allowed for mileage.

(4) *Exemplification and Copies of Papers.* Fees for exemplification and copies of papers necessarily obtained for use in the case shall be limited to those documents used at the trial and received in evidence. Consequently, it will be incumbent upon counsel to assure that all documents necessarily obtained for use in the case are offered and received in evidence. Should an objection be made to the Clerk of Court's bill of costs, the Court will entertain evidence of necessity at the resultant hearing. The costs of copies of an exhibit are taxable when copies are admitted into evidence in lieu of originals which are not available for introduction into evidence. The costs of copies submitted in lieu of originals because of convenience of offering counsel are not taxable. The costs of copies obtained for counsels' own use are not taxable. The fee of an official for certification or proof of non-existence of a document is taxable.

(5) *Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries.* The cost of photographs, eight (8) x ten (10) inches in size or less, is taxable, if the photographs are admitted into evidence. Enlargements greater than eight (8) x ten (10) inches are not taxable except by order of the Court. Costs of models are not taxable except by order of the Court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(6) *Docket Fees to Attorneys.* The statutory docket fees for counsel are taxable costs. (See 28 U.S.C. § 1923.) Attorney costs are not taxable except by order of the Court. If attorney fees are allowable in an amount greater than Twenty Dollars (\$20.00), as set forth in 28 U.S.C. § 1923(a), it is incumbent upon the prevailing attorney to bring this fact to the Clerk of Court's attention by including the proper citation in the verification of costs incurred.

(7) *Fees to Masters, Receivers and Commissioners.* Fees to masters, receivers and commissioners are taxable as costs, unless otherwise ordered by the Court. When costs are sought for items not listed in 28 U.S.C. § 1920, the procedure

best followed is an application to the Court in advance of trial for an approving order.

(g) *Costs Taxed by Appeals Court* [Fed. R. App. P. 39(d)]. Any costs taxed in the mandate of the Circuit Court shall be forthwith entered by the Clerk of Court.

(h) *Costs on Appeal in District Court* [Fed. R. App. P. 39(e)]. All costs taxable under Fed. R. App. P. 39(e) shall be deemed waived unless the party entitled thereto files a bill of costs, in accordance with paragraph (a)(1) of this Local Rule, within twenty (20) days of the issuance of the mandate by the Circuit Court.